

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

OMAR RODELA,
Plaintiff,

vs.

TVI, INC., d/b/a SAVERS
Defendant.

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Civil Action No. 3:18-cv-00362

JURY DEMANDED

DEFENDANT TVI, INC. D/B/A SAVERS' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Defendant TVI, INC. d/b/a Savers ("Savers") who files this Notice of Removal on the basis of diversity jurisdiction and would show the Court as follows:

I. BACKGROUND

1. Savers is a defendant in a civil action pending in the 210th Judicial District Court of El Paso County, Texas, entitled *Omar Rodela vs. TVI, INC. d/b/a TEXAS TVI, INC. d/b/a SAVERS*, Cause No. 2018-DCV-3228 (hereinafter referred to as the "State Court Action"). An Index of the State Court Action Documents filed with the Notice of Removal is attached hereto as "Exhibit A," and true and correct copies of all process, pleadings and orders served upon Savers in the State Court Action are attached hereto as Exhibits "B-1, B-2, B-3 and B-4" as required by 28 U.S.C. § 1446(a).

2. The State Court Action was filed on or around September 10, 2018, and named Savers as the sole defendant. Savers was served with Plaintiff's Amended Petition (the "Complaint") on October 23, 2018. Thus, this Notice of Removal of the case to the United States District Court is timely filed by Savers, it being filed not more than thirty (30) days after service of the Complaint on Savers, in accordance with 28 U.S.C. § 1446(b).

3. Pursuant to 28 U.S.C. § 1446(d), Savers will promptly give written notice of the filing of this Notice of Removal to Plaintiff and will further file a copy of this Notice of Removal with the 210th Judicial District Court of El Paso County, Texas, where the action was previously pending.

II. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

4. Removal of the State Court Action to this Court is proper pursuant to 28 U.S.C. § 1332 because: (1) there is complete diversity between Plaintiff and the defendant, Savers, and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

A. Complete diversity exists between Plaintiff and Defendant, TVI, Inc., d/b/a Savers.

5. Plaintiff's State Court Action may be removed to this Court because it arises under 28 U.S.C. § 1332.

6. Plaintiff is and was at the time of the filing of this action a citizen of the State of Texas.

7. Savers is and was at the time of the filing of this action a corporation incorporated under the laws of the State of Washington, with its principal place of business in Bellevue, Washington. Consequently, Savers is a citizen of the State of Washington.

8. Thus, the district courts of the United States have original jurisdiction over this action based on complete diversity of citizenship amongst and between parties, in that Plaintiff and Savers are now and were at the time this action commenced diverse in citizenship from each other.

B. The Amount in Controversy Exceeds \$75,000.

9. In the Complaint, Plaintiff pled that "Plaintiff seeks monetary relief over \$200,000.00 but no more than \$1,000,000.00." Therefore, it is facially apparent from the Complaint that the amount in controversy exceeds the requisite amount of \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a).

10. Because the amount in controversy in the State Court Action is in excess of \$75,000.00, the jurisdictional minimum for diversity cases, and it is a civil action wholly between citizens of different states, the State Court Action is within the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332.

III. VENUE

11. Under 28 U.S.C. § 1446(a), venue of the removed action is proper in this Court as it is the district and division embracing the place where the State Court Action is pending.

IV. JURY DEMAND

12. Savers hereby requests trial by jury on all issues and claims in this cause.

WHEREFORE, Defendant TVI, Inc. d/b/a Savers, hereby removes the case styled *Omar Rodela vs. TVI, Inc. d/b/a Texas TVI, Inc. d/b/a SAVERS*, Cause No. 2018-DCV-3228, and respectfully request that this Court assume full jurisdiction of this proceeding for all purposes as if originally filed in this Court, including but not limited to issuing any orders necessary to stay the proceedings in the State Court Action.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Robert A. Ewert

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**ATTORNEY FOR DEFENDANT TVI, Inc.
d/b/a Savers**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent to all counsel of record in accordance with the Federal Rules of Civil Procedure on this the **20th** day of **November, 2018**.

Daisy Chaparro
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/s/ Robert A. Ewert
Robert A. Ewert